

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

PRINCE JONES,

Plaintiff,

v.

**CIVIL ACTION NO. 2:17-CV-134
(BAILEY)**

**UNITED STATES, LT. J. RIFFLE,
OFFICER J. HUNT, WARDEN
DAVID WILSON, LT. HOWELL,
CLARK BRETT FRIEND, DANIEL
PRUSA, CHRISTOPHER MEYER,
JOHN PYLES, and OFFICER
JOHN DOE,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert [Doc. 8]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his R&R on November 30, 2017, wherein he recommends this Court dismiss the action without prejudice and deny the pending Motion for Leave to Proceed in Forma Pauperis [Doc. 2].

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the

factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was accepted on December 6, 2017 [Doc. 11]. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 8]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court **ORDERS** that the plaintiff's complaint **[Doc. 1]** be **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(g). Additionally, the Motion to Proceed *In Forma Pauperis* **[Doc. 2]** is **DENIED AS MOOT**. This Court further **DIRECTS** the Clerk to enter judgment in favor of the respondents and to **STRIKE** this case from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: January 3, 2018.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE